



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCIO
GOVERNOR

MEMORANDUM

DAVID P. LITTELL
COMMISSIONER

TO: The Board of Environmental Protection

FROM: Mark Stebbins, Bureau of Land & Water Quality, Augusta

RE: Permission to Begin Formal Rulemaking & Post to Public Comment Chapter 378
Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay & Silt and the
Performance Standards for the Storage of Petroleum Products

DATE: December 21, 2006

Statute and Rule Reference:

38 M R S A Section 341-D provides the Board of Environmental Protection with the authority to adopt, amend and repeal rules as necessary for the conduct of its business. This rulemaking for Chapter 378 is part of normal program maintenance under the Performance Standards for Excavations, 38 M R S A §490-E and the Performance Standards for Quarries, 38 M R S A §490-CC.

Location / Applicability:

The proposed rule only applies to the organized areas of the State and mining operations licensed under the Performance Standards for Excavations, 38 M R S A §490-E and the Performance Standards for Quarries, 38 M R S A §490-CC.

This section of rule was designated by the Legislature as routine technical. Updates to the rule have a sunset provision of March 1, 2007. In addition, the change is minor in nature and meets the definition of "routine technical" under the Maine Administrative Procedures Act, 5 M R S A Section 8001.

Description:

The need to change the existing rules resulted primarily from changes to the Stormwater Management Law and its associated rule changes in Chapter 500 and 502. To ensure consistency between programs, changes are warranted to bring the variance criteria up to current standards for stormwater management. The proposed changes specifically relate to the requirements for externally drained pits and the storage of petroleum products. The proposed changes are as follows:

- Repeal Section 3(D), which governs variances for externally drained pits and replace it with new language to ensure consistency with the stormwater management rules.
- Add a section in the performance standards for the storage of petroleum products that allows the use of double-walled tanks as secondary containment.
- Update other Spill Prevention, Control and Countermeasures requirements to ensure consistency with other Department programs.

Department Recommendation:

The Department recommends a comment period ending on January 26, 2007.

Estimated Time of Presentation:

15 minutes

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